
HOUSE BILL No. 1718

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-41-4-2.

Synopsis: Rape prosecutions and DNA evidence. Allows a prosecution for rape as a Class B felony to be commenced within ten years after the commission of the offense instead of within five years after the commission of the offense. Allows a prosecution for rape as a Class B felony to be commenced at any time if DNA evidence that is relevant to the offense becomes available more than ten years after the commission of the offense. (Current law allows a prosecution for rape as a Class A felony to be commenced at any time.)

Effective: July 1, 2001.

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January 17, 2001, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1718

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-41-4-2, AS AMENDED BY P.L.9-2000,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 2. (a) Except as otherwise provided in this section,
4 a prosecution for an offense is barred unless it is commenced:

5 (1) within five (5) years after the commission of a Class B, Class
6 C, or Class D felony; or

7 (2) within two (2) years after the commission of a misdemeanor.

8 (b) **A prosecution for rape as a Class B felony under**
9 **IC 35-42-4-1(a) is barred unless it is commenced within ten (10)**
10 **years after the commission of the offense. However, a prosecution**
11 **for rape as a Class B felony may be commenced at any time if DNA**
12 **(as defined in IC 10-1-9-2) evidence that is relevant to the offense**
13 **becomes available more than ten (10) years after the commission**
14 **of the offense.**

15 (c) A prosecution for a Class A felony may be commenced at any
16 time.

17 (c) (d) A prosecution for murder may be commenced:



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(1) at any time; and

(2) regardless of the amount of time that passes between:

(A) the date a person allegedly commits the elements of murder; and

(B) the date the alleged victim of the murder dies.

~~(d)~~ (e) A prosecution for the following offenses is barred unless commenced before the date that the alleged victim of the offense reaches thirty-one (31) years of age:

(1) IC 35-42-4-3(a) (Child molesting).

(2) IC 35-42-4-5 (Vicarious sexual gratification).

(3) IC 35-42-4-6 (Child solicitation).

(4) IC 35-42-4-7 (Child seduction).

(5) IC 35-46-1-3 (Incest).

~~(e)~~ (f) Notwithstanding subsection ~~(e)(1)~~; (e)(1), a prosecution for child molesting under IC 35-42-4-3(c) or IC 35-42-4-3(d) where a person who is at least sixteen (16) years of age allegedly commits the offense against a child who is not more than two (2) years younger than the older person, is barred unless commenced within five (5) years after the commission of the offense.

~~(f)~~ (g) A prosecution for forgery of an instrument for payment of money, or for the uttering of a forged instrument, under IC 35-43-5-2, is barred unless it is commenced within five (5) years after the maturity of the instrument.

~~(g)~~ (h) If a complaint, indictment, or information is dismissed because of an error, defect, insufficiency, or irregularity, a new prosecution may be commenced within ninety (90) days after the dismissal even if the period of limitation has expired at the time of dismissal, or will expire within ninety (90) days after the dismissal.

~~(h)~~ (i) The period within which a prosecution must be commenced does not include any period in which:

(1) the accused person is not usually and publicly resident in Indiana or so conceals himself that process cannot be served on him;

(2) the accused person conceals evidence of the offense, and evidence sufficient to charge him with that offense is unknown to the prosecuting authority and could not have been discovered by that authority by exercise of due diligence; or

(3) the accused person is a person elected or appointed to office under statute or constitution, if the offense charged is theft or conversion of public funds or bribery while in public office.

~~(i)~~ (j) For purposes of tolling the period of limitation only, a prosecution is considered commenced on the earliest of these dates:



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(1) The date of filing of an indictment, information, or complaint before a court having jurisdiction.

(2) The date of issuance of a valid arrest warrant.

(3) The date of arrest of the accused person by a law enforcement officer without a warrant, if the officer has authority to make the arrest.

⌚ (k) A prosecution is considered timely commenced for any offense to which the defendant enters a plea of guilty, notwithstanding that the period of limitation has expired.

SECTION 2. [EFFECTIVE JULY 1, 2001] **IC 35-41-4-2, as amended by this act, applies only to offenses committed after June 30, 2001.**

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